

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING THE
SETTLEMENT OF THE CLAIM OF
EDWARD M. BAILEY IN THE AMOUNT OF
\$5,048.26 AGAINST THE CITY OF
ATLANTA ARISING FROM A SEWER
BACK UP.**

00-*R*-1815

WHEREAS, EDWARD M. BAILEY has filed a claim against the City of Atlanta seeking damages arising out of a sanitary sewer back up to his property located at 308 E. Rhine Hill Road, SE, Atlanta, Georgia; and

WHEREAS, property owned by EDWARD M. BAILEY has been damaged due to a sewer back up and sewer overflow resulting from a blockage of the South River trunk line. This blockage is due to an accumulation of storm water in the system which the City had knowledge of prior to the back up which occurred on April 2, 2000 specifically; and

WHEREAS, the City of Atlanta was on notice of said nuisance and failed to respond and successfully abate said nuisance; and

WHEREAS, inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

WHEREAS, the claimant has asserted damages in the amount of \$5,048.26 and has agreed to accept this sum in full and complete satisfaction and settlement of his claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of EDWARD M. BAILEY, be settled for the sum of \$5,048.26.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$5,048.00 be paid by the City of Atlanta to EDWARD M. BAILEY, in satisfaction of any and all claims he may have stemming from damages sustained to his property on or about April 2, 2000, at 308 E. Rhine Hill Road, SE, and that the City Attorney prepare appropriate releases.

BE IT FURTHER RESOLVED that the Chief Financial Officer is hereby authorized to pay the above mentioned sum from account number 2J01/529017/T31001.

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0313

Date: November 3, 2000

Claimant /Victim EDWARD M. BAILEY
BY: (Atty) (Ins. Co.) _____
Address: 308 Rhine Hill Road, SE, Atlanta, Georgia 30315
Subrogation: _____ Claim for Property damage \$ 5,048.26 Bodily Injury \$ _____
Date of Notice: 5/17/00 Method: Written, Proper X Improper _____
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 4/2/00 - 4/7/00 Place: 308 Rhine Hill Road, SE
Department PUBLIC WORKS Division Sewer Operations
Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: Claimant sustained property damages to his residence from a sanitary sewer back up. An investigation determined that Claimant's back up continued for some length of time and the City was on notice of said sewer problem, but failed to respond and correct the problem within a reasonable time.

INVESTIGATION:

Statements: City employee X Claimant X Others _____ Written _____ Oral X
Pictures _____ Diagrams _____ Reports: Police _____ Dept Report X Other X
Traffic citations issued: City Driver _____ Claimant Driver _____
Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial _____
Improper Notice _____ More than Six Months _____ Other _____ Damages reasonable X
City not involved _____ Offer rejected _____ Compromise settlement _____
Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____
Claimant Negligent _____ City Negligent X Joint _____ Claim Abandoned _____

Respectfully submitted,


INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ 5,048.26 Adverse _____ Account charged: 1A01 _____ 2J01 X 2H01 _____
Claims Manager:  Concur/date 11-02-00
Committee Action: _____ Council Action _____

COUNCIL OF THE CITY OF ATLANTA
MUNICIPAL CLERK
City Hall
55 Trinity Avenue, S.W.
Atlanta, Georgia 30335

1/3
RE: CLAIM FOR DAMAGES

Reeves
05/17/00
Du
Today's Date: 4/24/2000

ENTERED - 5-19 - SB
00L0313 - MIKE REEVES

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ \$2,400.00 property and/or
\$ _____ bodily injury for which I contend the City is liable.

1. Date of incident: 4-2-2000 2. Time of Incident: _____ 3. Police called: _____
(month/day/year). Yes No

4. Location of incident (including street address): 308 East Rhine Hill Rd - Atlanta, Ga. 30315

5. Name of your insurance company: _____ Policy No. _____

6. State what and how incident occurred: I had been out of town for a couple of days and came back in town and I had to go downstairs into my Basement to get some food out of the Deep freezer and behold I had a basement swimming pool of raw sewage floating into my full Basement. There was raw human species floating everywhere

7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL
RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!

All items listed on following pages !!!
8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of
repair and proof of ownership of your vehicle (copy of the current tag receipt or title).

Your vehicle: _____
(Make) (Year) (Tag Number) (Driver's Name)

City vehicle: _____
(Make) (City Driver's Name) (Department/Bureau)

9. Witness: _____
(Name) (Address) (Telephone Number)

10. The acknowledgement of this claim in no way waives the sovereign immunity of the City of Atlanta, as granted by
State law, nor is it an admission of liability on behalf of the City of Atlanta and / or its employee(s).

11. This claim should be mailed immediately to the address shown above.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE
INFORMATION IS TRUE AND CORRECT.

Mr. Edward M. Bailey
Signature of Claimant

MR. Edward M. Bailey
(Print Claimant's Name)

308 East Rhine Hill Rd
(Address)

Atl. Ga 30315
(City, State and Zip Code)

404-622-8021
(Work Number) (Home Number)